

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Shirley Dufour

Plaintiff

vs.

North American Credit Services, Inc.

And

Emerigent –Henry, LLC

Defendants

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Case No.:

**Complaint Seeking Damages For Violations of
the Fair Debt Collection Practices Act**

Introduction

1. This is an action for actual, statutory and punitive damages filed pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA") and for violations of the United States Bankruptcy Code and the Orders of the United States Bankruptcy Court pursuant to 28 U.S.C. §1334(b).

Jurisdiction and Venue

2. Jurisdiction is conferred on this Court pursuant to § 1692 of Title 15 and §1681(p) of the United States Code.

3. Venue is proper as to this Defendant.

Parties

4. The Plaintiff is a natural person and resident of the State of Georgia. She is a "consumer" as defined by 15 U.S.C. § 1681a(c).

5. Defendant North American Credit Services, Inc. (NACS) is, upon information and belief, a corporation organized under the laws of the State of Tennessee.

6. Defendant Emerginet-Henry LLC (Emerginet) is a limited liability corporation organized under the laws of Georgia.

7. Both defendants conduct business in that State of Georgia.

8. Defendant NACS is engaged on a regular basis in the collection of consumer debt.

Factual Allegations

9. Service of Plaintiff's complaint and the Summons issued by this Court have been made upon Defendants in accordance with the law.

10. The Plaintiff filed a petition in bankruptcy under chapter 13 of the United States Bankruptcy Code in the United States Bankruptcy Court, Northern District of Georgia, Atlanta Division on October 4, 2009. Plaintiff's case was assigned number 09-86118. On or about April 15, 2009 the chapter 13 was converted to a chapter 7 proceeding.

11. On June 2, 2009, plaintiff amended her schedules to include a debt to Emerginet. This debt was scheduled as unsecured.

12. Emerginet was served with Notice of Chapter 7 Bankruptcy Case by the Bankruptcy Noticing Center on numerous occasions and had actual notice of the proceeding.

13. Plaintiff received a discharge of her debts under 11 U.S.C. 727 by Order of the Bankruptcy Court on July 30, 2010. The Order of discharge was served upon defendant Emerginet.

14. On August 24, 2010, subsequent to receiving notice of the plaintiff's bankruptcy discharge, defendant Emerginet referred the account included in plaintiff's bankruptcy to defendant NACS for collection.

15. This bankruptcy case and subsequent discharge was reflected on all three major credit reporting services as well as the "Banko" system within a matter of days of plaintiff's filing and discharge. Thus the plaintiff's bankruptcy protection was known or readily discernable by the defendant.

16. On or about September 9, 2010 defendant NACS caused to be mailed to the plaintiff a letter seeking collection of the debt owed to Emerginet. This letter is attached as exhibit A.

COUNT I – VIOLATION OF THE FDCPA

17. Paragraphs 1-16 are realleged as if fully set forth herein.

18. Defendant NACS violated the FDCPA. These violations include but are not limited to making false and deceptive statements to plaintiff and communicating with a consumer defendant knew, or should have known to be represented.

19. As a result of the above violations of the FDCPA, the Defendant is liable to the Plaintiffs for actual damages, statutory damages of \$1,000.00, and attorney's fees.

COUNT II – VIOLATION OF THE DISCHARGE INJUNCTION

20. Paragraphs 1-16 are realleged as if fully set forth herein.

21. Upon the issuance of the plaintiff's discharge all creditors, including the defendants, were barred from pursuing collection pursuant to 11. U.S.C. 524. (the discharge injunction)

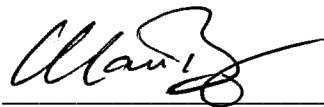
22. As a result of the above violations of the Defendant is liable to the

Plaintiffs for actual damages, punitive damages and attorney's fees.

WHEREFORE, the Plaintiff having set forth his claims for relief against the Defendant respectfully prays of the Court as follows:

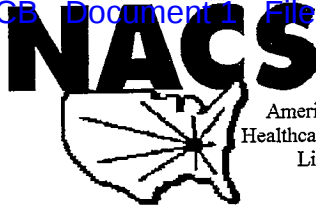
- A. That the Plaintiff have and recover against the Defendants a sum to be determined by the Court in the form of actual damages;
- B. That the Plaintiff have and recover against Defendant NACS the sum of \$1,000.00 in the form of statutory damages for violations of the FDCA;
- C. That the Plaintiff have and recover against the Defendants punitive damages in an amount sufficient to deter them from similar conduct in the future pursuant to 15 U.S.C. § 1681n;
- D. That the Plaintiffs have and recover against the Defendants reasonable legal fees, costs and expenses incurred by their attorney; and
- D. That the Plaintiffs have such other and further relief as the Court may deem just and proper.

Dated this the 21stth day of March, 2011.



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Berry & Associates
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Atlanta, Georgia 30324
(404) 235-3334
matt@mattberry.com

Do not send correspondence to this address.

PO BOX 1965
SOUTHGATE, MI 48195-0965Members
American Collectors Association
Healthcare Client Services Association
Licensed/Insured/Bonded2810 Walker Road, Suite 100
Chattanooga, TN 37421
Phone (423) 894-5654
(800) 467-5654

Patient #: 482487-1

For: EMERGINET-HENRY LLC ER PHY

Debt #: 6592438

Balance: \$91.65

Amount Enclosed: _____

ADDRESSEE

6592438/N76

208171491177

0014767/0056

Shirley D Dufour
30 Highland Boulevard
Stockbridge, GA 30281

MAKE CHECKS PAYABLE AND REMIT TO:

NORTH AMERICAN CREDIT SERVICES
PO BOX 182221
CHATTANOOGA, TN 37422-7221

* Please return TOP portion in supplied envelope.

GUARANTOR ACCOUNT SUMMARY

Date of Service	Patient Name	Patient #	Amount
5/20/2010	CHRISTOPHER D DUFOUR	482487-1	91.65

ACCOUNT SUMMARY

Statement Date: 09/02/10

For: EMERGINET-HENRY LLC ER PHY

Debt #: 6592438

Balance: \$91.65

Dear Shirley D Dufour:

Your account is now seriously past due and has been turned over to a national "debt collection" agency. Your failure to pay what is due has caused the creditor to ask for our assistance. Before we take any steps against you to collect this debt, we want to offer you the chance to pay what you owe voluntarily.

You may be able to prevent any negative credit reporting on a nationwide basis by mailing your payment to our office. Or you can call our office at (800) 467-5654 to pay with your major credit card.

Sincerely,
Account Rep., Ext 125

Staff Collector/North American Credit Services

For your convenience our office accepts MasterCard, Visa and American Express. If you would like to pay by credit card please call (800) 467-5654 and follow the prompts. All credit card payments are subject to a \$3.00 convenience fee that will be added to your payment amount.

This collection agency is licensed by the Collection Service Board, State Department of Commerce and Insurance. North American Credit Services is a Tennessee Corporation.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days after receiving this notice, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request from this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Notice to debtor: This is an attempt to collect a debt. Any information obtained will be used for that purpose. This letter is from a debt collection agency.

☎ Telephone: (423) 894-5654 (800) 467-5654

🕒 Office Hours (Eastern Time): Mon - Thu, 8:00 am - 8:00 pm; Fri 8:00 am - 5:00 pm

✉ Send correspondence to: NORTH AMERICAN CREDIT SERVICES, PO BOX 182221 CHATTANOOGA, TN 37422-7221

🌐 If you would like to manage your account on line, please go to our new consumer website at <https://nacspayonline.com>. You will be able to set up a profile using authorization code 65924382724.

Exhibit A